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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/941,602 09/30/97 MIZE

J 42765

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IM22/1230

EXAMINER

NOLAN, S

W R GRACE & CO.-COMM
PO BOX 464
DUNCAN SC 29334

ART UNIT	PAPER NUMBER
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1772

11

DATE MAILED: 12/30/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/941,602

Applicant(s)
MIZE et al

Examiner
Sandra Nolan

Group Art Unit
1772



☒ Responsive to communication(s) filed on Oct. 25, 1999

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-35 is/are pending in the application

Of the above, claim(s) 8-17, 19, and 21 is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-7, 18, 20, and 22-35 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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DETAILED ACTION

OBJECTION/REJECTION WITHDRAWN

1. The objection to claim 18 and 22 recited in paragraph 3 of the July 21, 1999 Office Action (Paper No. 9) is withdrawn in view of amendments made in Applicants' response dated October 25, 1999 (Paper No. 10).
2. The rejection of claim 24, 25, and 28 under 35 USC 112 is withdrawn in view of arguments presented in Paper No. 10.

REJECTIONS MAINTAINED

3. Claims 1-7, 20, 22-25 and 31-35 remain rejected under 35 USC 102(e) as anticipated by Brady et al (WO 96/00688).

Brady et al is cited for the reasons discussed at paragraph 5 of Paper No. 9.

Also, Brady et al show, in Figure 9, an embodiment in which a bag (196) has seals that do not involve a patch (200).

The Examiner acknowledges that Figures 11 and 12 of Brady et al show seals in both the bag and the patch. However, Brady et al is cited for its entire disclosure, not just Figures 11 and 12.

Figure 9 shows a bag/patch combination in which the seals need not be in the patch (see also, page 30, lines 26-29 of Brady et al). Note that Figure 9 of Brady et al is substantially the same as Applicants' Figure 4A, which figure is described at page 22, lines 15-19 of Applicants' specification.

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4. The 35 USC 103 rejection of claims 18, 20 and 26-35 over Brady et al in view of Compton (US 5,846,620) is maintained for the reasons stated in paragraph 6 of Paper No. 9.

RESPONSE TO ARGUMENTS

5. Applicant's arguments filed in Paper No. 10 have been fully considered but they are not persuasive.

Applicants' arguments center on the recitation, in all of the independent claims now being considered, of bag/patch combinations in which the bag and the patch do not share a seal. As discussed in paragraph 3 above, Brady et al show such combinations.

Compton is relied upon as showing backseaming in packaging films and to teach a reason to backseam. The fact that the patent may discuss tubes does not render its teachings inapplicable. Note, too, the recitation of "bags" at col. 1, line 6 of Compton.

Lastly, since Compton is not applied in a 35 USC 102 rejection, it need not recite all of the limitations of the rejected claims.

FINAL REJECTION

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sandra M. Nolan, whose telephone number is (703) 308-9545. The examiner can normally be reached on Monday through Thursday from 7:00 am to 4:00 pm. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ellis P. Robinson, can be reached on (703) 308-2364. The fax phone number for the organization where this application is assigned is (703) 305-5408.

The telephone number for the receptionist is (703) 308-0661.


NASSER AHMAD
PRIMARY EXAMINER
~~GROUP 1300~~
TC-1700

SMN/smn
December 24, 1999
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